

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MICHAEL S. STANSALL,

Defendant.

4:14-CR-3039

ORDER

This matter is before the Court on the defendant's motion for relief from judgment ([filing 62](#)) pursuant to [Fed. R. Civ. P. 60\(b\)\(6\)](#). The defendant asks the Court for relief from the Court's order ([filing 58](#)) and judgment ([filing 59](#)) denying his motion to vacate ([filing 56](#)) pursuant to [28 U.S.C. § 2255](#). The defendant's Rule 60 motion will be denied.

Rule 60 lists several grounds for relief from a final judgment, none of which are invoked here, but the catchall provision—Rule 60(b)(6)—permits a court to reopen a judgment for "any other reason that justifies relief." Rule 60(b) vests wide discretion in courts, but relief under Rule 60(b)(6) is available only in "extraordinary circumstances." [Buck v. Davis, 137 S. Ct. 759, 777-78 \(2017\)](#). In determining whether extraordinary circumstances are present, the Court may consider a wide range of factors including, in an appropriate case, the risk of injustice to the parties and the risk of undermining the public's confidence in the judicial process. *Id.* But "such circumstances will rarely occur in the habeas context." *Id.* at 772 (quoting [Gonzalez v. Crosby, 545 U.S. 524, 535 \(2005\)](#)).

Such extraordinary circumstances are not present here. The defendant's argument is that his § 2255 motion was not well-presented to the

Court, and that due process was violated when his § 2255 motion "was denied without clarification [sic] on [his] issue." [Filing 62 at 2](#). He is, he says, "not seeking to add any new claims." [Filing 62 at 2](#). In essence, the defendant is asking for a do-over on his § 2255 motion.

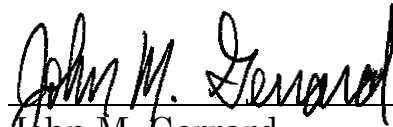
But what the defendant hasn't done is explained why any of the Court's findings in denying his § 2255 motion were incorrect. And there is nothing at all "extraordinary" about a deficient § 2255 motion. The Supreme Court has gone so far as to hold that a [Rule 60\(b\)\(6\)](#) motion seeking to reopen a federal habeas petition should be rejected even where the grounds for denying the petition were abrogated by subsequently decided caselaw. [Gonzalez, 545 U.S. at 537-38](#); *see also Williams v. Kelley*, 854 F.3d 1002, 1009 (8th Cir. 2017). It is clear, then, that a judgment which has not been legally undermined in any way is not subject to Rule 60(b)(6). *See Davis v. Kelley*, 855 F.3d 833, 835-36 (8th Cir. 2017).

In short, the only circumstances present here are *ordinary* circumstances: the defendant filed a § 2255 motion, and the Court found that it lacked merit. There is no basis for relief under Rule 60(b)(6).

IT IS ORDERED that the defendant's motion for relief from judgment ([filing 62](#)) is denied.

Dated this 13th day of February, 2018.

BY THE COURT:



John M. Gerrard
United States District Judge